

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: CAROLINE BROWN,
Debtor.

No. C 11-3894 CW

SUM LIM,
Plaintiff/Appellant,
v.

CAROLINE BROWN,
Defendant/Appellee.

ORDER DENYING
APPELLANT'S MOTION
FOR A STAY OF
BANKRUPTCY COURT'S
ORDERS PENDING
APPEAL AS MOOT

On November 4, 2011, Appellant Sum Lim moved, under Federal Rule of Bankruptcy Procedure 8005, for a stay pending her appeal of two of the bankruptcy court's orders, which she identifies as the bankruptcy court's "final order" and the discharge order. Appellant indicated that a stay is necessary for her to proceed on appeal because the bankruptcy court's discharge order prohibited Appellee's creditors from continuing a lawsuit. Appellee Caroline Brown opposed, arguing that the motion should be denied as moot because Appellant may proceed with her appeal without a stay of the bankruptcy court's orders. On November 14, 2011, Appellant filed her opening brief.

In the underlying bankruptcy case, Appellant filed a complaint against Appellee under 11 U.S.C. § 523(a)(2)(A), claiming that Appellee's debt to her was not dischargeable because it was "for money, property or services obtained by false pretenses, a false representation, or actual fraud." The

1 bankruptcy court granted Appellee's motion to dismiss the
2 complaint with leave to amend because Appellant had not alleged
3 the elements of a claim under § 523(a)(2)(A) for fraud.
4 Subsequently, the bankruptcy court dismissed Appellant's first
5 amended complaint with prejudice because she still had not alleged
6 that Appellee had committed fraud.

7 This Court has jurisdiction over this appeal pursuant to 28
8 U.S. § 158, which provides district courts with jurisdiction to
9 hear appeals from final judgments, orders and decrees of the
10 bankruptcy court. See In re Kimmel, 324 Fed. Appx. 549, *1 (9th
11 Cir. 2008) (Pursuant to 28 U.S.C. § 158, Ninth Circuit has
12 jurisdiction over appeal of judgment of Bankruptcy Appellate Panel
13 affirming bankruptcy court's dismissal of § 523(a)(2)(A)
14 complaint). Thus, a stay is not necessary for Appellant to appeal
15 the bankruptcy court's orders dismissing her § 523 claim.

16 Appellant also seeks a stay of the bankruptcy court's "final
17 order," which she does not identify. Nor does she explain why she
18 wants to stay it. Therefore, the Court does not address it.

19 The motion for a stay pending appeal is denied as moot.
20 (Docket No. 20). Appellant filed her opening brief on November
21 14, 2011. Appellee's answering brief is due on or before December
22 5, 2011. Appellant's reply brief is due fourteen days after
23 service of Appellee's brief.

24 IT IS SO ORDERED.

25
26 Dated: 11/22/2011

27 
28 CLAUDIA WILKEN
United States District Judge